IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WA.No. 1046 of 2003

AGAINST THE JUDGEMENT IN OP.13889/1998 Dated 01/11/2002
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APPELLANT: 3rd RESPONDENT

EMPLOYEES STATE INSURANCE CORPORATION,
REP.BY ITS REGIONAL DIRECTOR, TRICHUR.

BY ADV. SRI.P.SANKARANKUTTY NAIR

RESPONDENTS: PETITIONERS 1 TO 3 & RESPONDENTS 1 AND 2
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1. F.I.T.EMPLOYEES UNION, REP.BY ITS SECRETARY P.K.VELAYUDHAN, THAIKATTUKARA, ALWAYE.

2. F.I.T.STAFF AND WORKERS UNION, REP.BY ITS VICE PRESIDENT M.G.SURESH KUMAR, ALWAYE.

3. F.I.T.STAFF AND WORKERS ASSOCIATION, REP.BY ITS VICE PRESIDENT P.P.MOHANAN.

4. FOREST INDUSTRIES (TRAVANCORE) LTD., THAIKATTUKARA, ALWAYE, REP.BY ITS MANAGING DIRECTOR.

5. STATE OF KERALA, REP.BY ITS SECRETARY TO THE GOVT., DEPARTMENT OF LABOUR, TRIVANDRUM.

R1 TO 3 BY ADV. SRI.P.RAMAKRISHNAN
R4 BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.RONY J.PALLATH
R5 BY SERNIOR GOVERNMENT PLEADER SRI M.R.SABU

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A.No.1046 of 2003

Dated, this the 27th day of June, 2007

JUDGMENT

H.L. DATTU, CJ.

This appeal arises out of the order passed by the learned Single Judge in O.P.No.13889 of 1998 dated 1st of November, 2002.

2. The appeal is filed by the Employees' State Insurance Corporation (ESI Corporation for short). We feel it strange, but we still accept that they could have filed this appeal.

3. The Employees' Union was before this court in O.P.No.13889 of 1998. The Union was questioning Ext.P2 order passed by the 2nd respondent State of Kerala (respondent No.5 in the appeal). By the said order the claim made by the Union for granting exemption under the provisions of the Employees' State Insurance Act (for short ESI Act) had been rejected.

4. The court has disposed of the writ petition and in that it has only directed the State Government to reconsider the whole issue once over again after hearing all the parties and then pass an appropriate order and in the meanwhile whatever amount that has been collected by the management shall be retained by them. It is this portion of the order which has caused some grievance to the ESI Corporation.

5. The learned counsel appearing for the ESI Corporation would vehemently contend before us that the learned Single Judge while disposing of the matter ought to have directed the respondent management to deposit whatever amount they have collected from the employees with the Corporation.

6. The members of the Union were before the State Government seeking exemption from the provisions of the ESI Act. The request is rejected, but in the meanwhile the management has collected contributions from the employees. In the normal course the amount so collected should have been handed over to the Corporation. But at this length of time, it may not be appropriate to issue any such direction. It would be suffice in interest of all the parties, if we direct the 2nd respondent to dispose of the representation filed by the employees as early as possible.

7. Accordingly, the following:

i. Appeal is disposed of.

ii. A direction is issued to the State Government to dispose of the representation filed by the Employees' Union claiming exemption from the purview of the ESI Act as expeditiously as possible, at any rate within four months from the date of receipt of a copy of this court's order, after issuing notices to all the parties interested in the matter.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/DK

H.L.DATTU, C.J. &
K.T. SANKARAN, J.

W.A.No. 1046 of 2003

JUDGMENT

27.6.2007